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Attorneys for the Canepa Group

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:)	Case No. 06-10725-LBR
)	Chapter 11
USA COMMERCIAL MORTGAGE)	
COMPANY,)	
)	Date: May 3, 2006
Debtor.)	Time: 9:30 a.m.
)	

JOINDER IN OPPOSITION TO MOTION FOR ORDER UNDER
11 U.S.C. §§ 105(a), 345 AND 363 APPROVING DEBTORS'
PROPOSED CASH MANAGEMENT PROCEDURES AND
INTERIM USE OF CASH IN ACCORDANCE WITH
PROPOSED CASH BUDGET

The Canepa Group¹ joins in the Opposition to Motion for Order Under 11 U.S.C. §§ 105(a), 345 and 363 Approving Debtor's Proposed Cash Management Procedures and Interim Use of Cash in Accordance With Proposed Cash Budget ("Cash Motion") filed with this Court as Docket entries 80 and 103.² Each person or entity identified collectively as the Canepa Group is a Direct Lender who loaned funds in a loan syndicated by USA Commercial Mortgage Company ("USA

¹

The Canepa Group consists of the following persons and entities: Scott K. Canepa; Shawntelle Davis-Canepa; Scott K. Canepa Defined Benefit Pension Plan; Evelyn G. Canepa Trust, Evelyn G. Canepa and Scott Krusee Canepa Trustees; Gary T. and Lori R. Canepa, Trustees of the G. & L. Trust dated 11/25/91; Louis John Canepa Trustee of the Louis John Canepa Revocable Trust dated 6/18/98; and Michael Wagnon.

²

The Canepa Group has filed this Joinder in all five USA cases.

Commercial"), which loans are serviced pursuant to a separate agency servicing agreement with USA Commercial.³

Additionally, the Canepa Group has recently learned that a third party, PDG Construction Control, holds the proceeds of certain loans, evidently in conjunction with administering the interest reserve and construction control components of those loans. The Canepa Group is concerned that there may be other third parties such as construction control, escrow or other servicing agents likewise hold loan proceeds. While the Canepa Group understands that the Debtor has requested permission to continue to fund construction and development to maximize the distribution to Direct Lenders on particular loans, the Canepa Group is concerned that there may be shortfalls or other irregularities in those loans which should be identified and addressed sooner rather than later. Consequently, in ruling on the Cash Motion, the Canepa Group asks that the Court condition the Debtor's continued disbursement of loan proceeds for construction and development as requested by the Cash Motion on the requirement that the Debtor must first identify and account for all loan proceeds in the possession of a third party and establish appropriate cash controls for the receipt and disbursement of those funds as well.

WHEREFORE, the Canepa Group seeks entry of the following order:

1. Denying the Cash Motion with respect to any payments received for any loans involving the Canepa Group.
2. Requiring the Debtor to sequester all post-petition payments received for each loan involving the Canepa Group, with any relief granted on the Cash Motion limited to the use of post-petition payments due from the Canepa Group and other Direct Lenders.
3. For all loan proceeds held by a third party, including PDG Construction Control, requiring the Debtor to: (a) account for all funds; (b) identify each such fund by loan, dollar amount

³

The Canepa Group also intends to take the appropriate action to revoke any powers of attorney, terminate all agency or servicing agreements and transfer the servicing of their loans to an independent third party.

1 and third party; and (c) sequester all post-petition payments received for each loan involving Direct
2 Lenders such as the Canepa Group.

3 4. Such other and further relief as is just and proper under the circumstances.

4 Respectfully submitted,

5 LIONEL SAWYER & COLLINS

6 /s/ Laurel E. Davis

7 By _____
Laurel E. Davis

8 Attorneys for the Canepa Group